

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION IV

Draft

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IN THE MATTER OF:

Saad SITE  
Nashville, Tennessee(NAME)  
(ADDRESS),  
\_\_\_\_\_  
\_\_\_\_\_

Respondent.

)  
 )  
 ) Proceeding Under Sections 104,  
 ) 106, and 122 of the  
 ) Comprehensive Environmental  
 ) Response, Compensation and  
 ) Liability Act of 1980, as  
 ) amended, 42 U.S.C. §§ 9604,  
 ) 9606, and 9622.  
 )  
 ) EPA DOCKET NO.: \_\_\_\_\_  
 )  
 )  
 )  
 )  
 )

ADMINISTRATIVE ORDER ON CONSENTI. JURISDICTION

This Administrative Order on Consent (hereinafter Consent Order) is entered into by the United States Environmental Protection Agency (hereinafter EPA) with \_\_\_\_\_ (hereinafter Respondent), pursuant to the authority vested in the President of the United States by Sections 104, 106 and 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (hereinafter CERCLA), 42 U.S.C. §§ 9604, 9606 and 9622, as amended by the Superfund Amendments and Reauthorization Act of 1986 (hereinafter SARA), P.L. 99-499. This authority was delegated by the President to the Administrator of EPA by Exec. Order No. 12580, dated January 23, 1987, 52 Fed. Reg. 2923 (January 29, 1987), and was further delegated to the Regional Administrator of Region IV, EPA, and redelegated to the Director, Waste Management Division. Notice of the issuance of this Order has been given to the State of Tennessee.

The parties stipulate that EPA has made the necessary determinations regarding the release or threat of release of hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), from the following location:

Saad Site  
 3655 Trousdale Road  
 Nashville, Tennessee

Respondent agrees that EPA has the right to enforce this Consent Order under CERCLA in a court of competent jurisdiction. In any action to enforce this Consent Order, Respondent agrees not to challenge the basis for the Consent Order or its applicability to the Respondent. The Findings of Fact and Conclusions of Law herein

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are effective only for the purposes of this Consent Order and are not binding in any other proceeding. Respondent agrees not to challenge these Findings, Conclusions or Determinations for purposes of enforcing this Consent Order.

## II. PARTIES BOUND

This Consent Order shall apply to and be binding upon the following parties:

- A. Respondent, its agents, officers, directors, employees, successors and assigns, and upon all persons acting under or for Respondent, including but not limited to, firms, corporations, contractors and consultants; and
- B. EPA and its agents, employees and contractors acting under or for EPA.

## III. FINDINGS OF FACT

For the purposes of this Consent Order, EPA finds that:

- A. \_\_\_\_\_ was a generator of hazardous wastes and did business with John P. Saad & Sons, Inc. to handle the disposition of that waste.
- B. The Saad Site is located in an industrial/commercial district in Nashville, Tennessee. The soil on the site is heavily contaminated with oil and various other solvents.
- C. The site is located in the middle of a commercial/light industrial area of Nashville, Tennessee. Although there is a fence around part of the property, it does not fully enclose it, and the gate is usually open. Access is not very limited. There are four open tanks full of an oily substance, and numerous drums that are exposed on the surface.
- D. There have been releases from the site that have been documented by sampling. Contaminants from the site have been found in the groundwater and springs in the Grassmere complex. Contaminants have also been found in monitoring wells on adjacent properties.
- E. Results of EPA sampling have indicated high levels of waste oil, herbicides, methylene chloride and other solvents, and various metals at the site, in both the groundwater, in the soil, and in the waste oil still present on the site. Methylene chloride, which is a carcinogen, has been found up to 220 ppm in the soil. The site has a very large sinkhole covering most of the ground area, which allows all contaminants a direct route into the groundwater.

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#### IV. CONCLUSIONS OF LAW

Based on the Findings of Fact set out above, EPA concludes that:

- A. The Site is a "facility," as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- B. Respondent is a "person," as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- C. Ethyl benzene, methylene chloride and toluene are "hazardous substances," as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
- D. The past, present or potential migration of hazardous substances from the Site constitutes an actual or threatened release, as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

#### V. DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set out above, EPA has determined that:

- A. The release or threat of release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.
- B. In order to protect the public health and welfare and the environment, it is necessary that action be taken to abate the release or threat of release of hazardous substances from the facility into the environment.
- C. The actions required by this Consent Order are consistent with the National Contingency Plan, 40 C.F.R. Part 300, et seq.

#### VI. ORDER

The parties having reached a resolution of the issues involved in this proceeding, it is hereby AGREED and ORDERED that Respondent shall undertake the following activities, pursuant to Sections 104, 106(a), and 122 of CERCLA, 42 U.S.C. §§ 9604, 9606(a) and 9622:

- A. Respondent shall develop, submit, and begin to implement within fourteen (14) days after the effective date of this Order, a workplan which shall be undertaken at the direction of EPA through its On-Scene Coordinator (OSC) and which shall encompass the following measures:

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1. Secure and contain all open drums and tanks currently exposed on the property; and
  2. Sample and reroute contaminated runoff;
- B. Respondent shall develop and submit to EPA within 90 days of the effective date of this Order a work plan which shall address the following items:
1. Sampling and cleanup of the contaminated soil and other materials on the site;
  2. Sampling and possible cleanup of the contaminated groundwater; and,
  3. Implementation of the work plan to begin within 15 days of approval of the work plan. Any offsite disposal facility must be in compliance with EPA's Offsite Policy.
- C. All activities undertaken by Respondent pursuant to this Consent Order shall be performed in accordance with all applicable, relevant and appropriate federal, state and local laws and shall be completed within 480 days after the effective date of this Order,
- D. All activities performed pursuant to this Consent Order shall be under the direction and supervision of a qualified professional engineer or other qualified professional with expertise and experience in hazardous waste site cleanup. Respondent shall notify EPA in writing of the identity of each such engineer or other professional and of any contractors or subcontractors to be used in carrying out the terms of this Consent Order, in advance of their work at the Site. EPA reserves the right of disapproval of any engineer or other professional selected by Respondent.
- E. Respondent will use quality assurance, quality control, and chain of custody procedures in accordance with EPA Region IV Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual (U.S. EPA Region IV, Environmental Services Division, April 1, 1986), throughout all sample collection and analysis activities. Respondent will consult with EPA in planning for all sampling and analysis. Respondent shall provide a quality control report to EPA certifying that all activities have been performed as approved.
- F. Upon request by EPA, Respondent shall provide EPA with split samples of any samples collected in accordance with the requirements of this Consent Order.

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- G. Respondent shall appoint a Project Coordinator who shall be responsible for implementation of this Consent Order and the activities required herein. All reports, comments and other correspondence directed to Respondent will be made available to the Project Coordinator. Respondent reserves the right to change the Project Coordinator upon written notice to EPA.
- H. EPA shall appoint an On-Scene Coordinator (OSC) who shall have the authority vested by the National Contingency Plan at 40 C.F.R. Part 300. The OSC will be EPA's designated representative at the Site and will have the right to move freely about the Site at all times when work is being carried out pursuant to this Consent Order. The OSC will advise Respondent as soon as he/she becomes aware that any action taken pursuant to the work plan is not consistent with the National Contingency Plan.
- I. Documents, including reports, approvals, disapprovals, and other correspondence, to be submitted pursuant to this Consent Order, will be sent by certified mail to the following addressees or to such other addressees as Respondent or EPA hereafter may designate in writing:

1. Documents or correspondence to EPA should be sent in triplicate to:

Kelly S. McCarty  
On-Scene Coordinator  
U.S. EPA-Region IV  
345 Courtland St. N.E.  
Atlanta, GA 30365

2. Documents or correspondence to Respondent should be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- J. Respondent may assert a confidentiality claim, if appropriate, covering part or all of the information provided under this Consent Order, pursuant to 40 C.F.R. § 2.203(b). Such an assertion shall be adequately substantiated when the assertion is made. Analytical data may not be claimed as confidential by Respondent. Information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted or made available to EPA, it may be made available to the public by EPA without further notice to Respondent.

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- K. Respondent shall provide access to the Site to EPA and its employees, contractors, and consultants for the purposes of overseeing the implementation of this Order.
- L. Respondent shall preserve all records developed pursuant to the implementation of this Order for a period of at least six (6) years following completion of all work conducted by Respondent pursuant to this Order.
- M. Upon agreement of the Parties, this Consent Order shall be amended as necessary to address such additional removal work necessary to adequately decontaminate the Site in order to protect public health and the environment or for such other reasons as the Parties may find mutually desirable.
- N. Any amendments pertaining to the work to be accomplished or any activities required hereunder must be reduced to writing by a duly authorized representative of the Respondent and the OSC within 48 hours after agreement is reached, so that there will be no delay in proceeding to accomplish the work requirements.
- O. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as necessary to abate the endangerment posed by conditions at the Site.
- P. In the event that the OSC determines that activities implemented by Respondent are not in compliance with this Order or that any other circumstances or activities are creating an imminent and substantial endangerment to the public health or welfare or the environment, the OSC may order Respondent to halt further implementation of this Order for such period of time as is necessary to abate the endangerment. In addition, EPA may carry out all activities pursuant to this Order and such other activities as it deems necessary and consistent with the NCP.
- Q. Neither the United States nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent, its officers, directors, employees, agents, servants, receivers, trustees, successors, or corporations, subsidiaries, contractors or consultants, in carrying out activities pursuant to this Consent Order.
- R. Respondent acknowledges that EPA will incur costs at the Site after the effective date of this Order for oversight of Respondent's activities at the Site. Respondent shall fully reimburse EPA for such costs within fourteen (14) days after receipt of EPA's written demand for payment. Payment shall be made by certified or cashier's check to "EPA Hazardous Substances Superfund" and sent to:

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United States Environmental Protection Agency  
Region IV  
ATTENTION: Superfund Accounting  
P. O. Box 100142  
Atlanta, Georgia 30384

with a copy to:

Ruben Bussey  
Assistant Regional Counsel  
U.S. EPA - Region IV  
345 Courtland Street, N.E.  
Atlanta, Georgia 30365

- S. Respondent is advised that pursuant to Section 106(b) of CERCLA, willful violation of, or failure to comply with, this Consent Order, or any portion thereof, may subject Respondent to a civil penalty of not more than \$25,000 for each day in which such violations occur or in which such failure to comply continues. Failure to comply with this Consent Order, or any portion thereof, without sufficient cause, may also subject Respondent to liability pursuant to Section 107(c)(3) of CERCLA for damages in the amount of three (3) times the total of all costs incurred by the government as a result of Respondent's failure to take proper action.
- T. Nothing herein is intended to release any claims, causes of action or demands in law or equity against any person, firm, partnership, or corporation not a signatory to this Consent Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Site. This Consent Order does not constitute preauthorization of funds under Section 111(a)(2) of CERCLA. Further, Respondent waives any rights it may have to seek reimbursement from the Superfund under Sections 106(b)(2), 111 and 112 of CERCLA for any costs incurred or to be incurred by Respondents in performing the removal action at the Site and complying with the terms of this Consent Order.
- U. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules or any other writing submitted by the Respondent shall be construed as relieving the Respondent of his obligation to obtain such formal approvals as may be required herein.

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- V. The effective date of this Consent Order shall be the date it is signed by the Director, Waste Management Division. Notice of the execution shall be given to Respondent and shall be deemed to have been received by the Respondent upon receipt by counsel for Respondent.

For the U.S. Environmental Protection Agency

\_\_\_\_\_  
Patrick M. Tobin, Director  
Waste Management Division  
U.S. EPA, Region IV  
345 Courtland Street, N.E.  
Atlanta, Georgia 30365

\_\_\_\_\_  
Date

CONSENT

[Name of Respondent], the Respondents in the Saad Site Administrative Consent Order, has had an opportunity to confer with EPA and hereby consents to the issuance and terms of the foregoing Administrative Consent Order for the performance of the Removal Action at the Saad Site in Nashville, Tennessee.

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date